

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Misc. Civil Application (ST) No. 36453/2018

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. G. T. Kanchanpurkar for the Applicant	

CORAM : K.K.TATED, J.
DATED : JULY 4, 2019

P.C.

1 Heard. In order dated 25.06.2019 in second line of paragraph 2, instead of “waive” it should be read “served”.

2 This Application is filed by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of M.P.No.79/2017 u/s.9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights, filed by the Respondent husband from Civil Judge, Senior Division, Sangli to the Civil Judge, Senior Division, Panvel.

3 The learned counsel for the Applicant submits that this court by order dated 18.04.2019 permitted the Applicant to serve the Respondent by substitute service. He submits that pursuant to the said order, the Applicant published notice in daily newspaper

“Pudhari” having wide circulation in Sangli District. To that effect he has filed on record an Affidavit of service dated 20.06.2019. In spite of substituted service, none appeared for the Respondent.

4 The learned counsel for the Applicant submits that the Applicant is a housewife. She does not have any source of income. She has to take care of her two and half years old child. He submits that the Respondent has made an Application below Exhibit- 23 wherein the Civil Judge, Senior Division, Sangli by order dated 07.01.2019 directed the Applicant to bring the child once in a month at Sangli at the costs of the Respondent. He submits that it is very difficult for the Applicant to take the child of two and half years each month to Sangli. Apart from that the distance between Panvel and Sangli is more than 450 km. Therefore, it is not possible for the Applicant to travel overnight to attend the date at Sangli. Therefore, in the interest of justice, this Hon'ble Court be pleased to allow the present Application and transfer the marriage petition from Sangli to Panvel.

5 It is to be noted that in the present proceedings though the Respondent is duly served, none appeared for him when the matter was called out.

6 In the present proceedings the Applicant is a housewife and she has to take care of a child of two and half years. Apart from that the distance between the Panvel and Sangli is more than 450 km. To travel to Sangli along with a minor child is very difficult for the Applicant. Considering these facts, I am of the opinion that the Applicant has made out a case for allowing this Application.

7 Hence, following order is passed:

a. H.M.P. No.79/2017 filed by the Respondent u/s.9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Civil Judge, Senior Division, Sangli is transferred to Civil Judge, Senior Division, Panvel for hearing and final disposal of merits.

b. The Misc. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)